

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

BECKETT GAS, INC. ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:08CV01410 ERW
	)	
CUSTOM ROLLFORM PRODUCTS, INC.,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff's Motion to Compel Inspection of Diffuser Machine [doc. #19]. A hearing was held on June 5, 2009, and the Court heard arguments from the Parties on this Motion. The Parties agree that Plaintiff should be permitted to inspect the diffuser machine, however, they disagree over the timing for when the machine should be made available and what length inspection should be permitted.

The Court believes that the two week inspection proposed by Plaintiff is too onerous, however, Defendant must provide Plaintiff with more than the four days they have offered to Plaintiff. Accordingly, the Court orders that any parts of the maintenance protocol that Plaintiff requires shall take place on Thursday, June 25, 2009 and Friday, June 26, 2009. The production inspection itself shall take place beginning on Monday, June 29, 2009 and must finish on or before July 2, 2009.

Defendant asks that Plaintiff not be permitted to take pictures or videotape the inspection. They state that the other machines in their facility are proprietary, and state that they are also concerned with the possibility of reverse engineering. The Court understands these concerns, but finds that they can be alleviated through a protective order. The Parties shall prepare and execute


a protective order before June 25, 2009. Their order should ensure that any videos or pictures are directed only at the operation of the diffuser machine, and nothing else at the facility. The protective order should also state that these images shall only be used in this litigation, and may be viewed only by plaintiff's counsel and expert witnesses, unless Defendant consents to allow others to view these images. Absolutely no use of the video to attempt to appropriate proprietary information shall be permitted.

The Court notes that the discovery deadline in this action is July 23, 2009. Plaintiff expressed concern over meeting this deadline as this inspection has been delayed. If Plaintiff feels that additional time is needed for discovery, Plaintiff should file a motion with the Court seeking additional time for discovery.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Compel Inspection of Diffuser Machine [doc. #19] is **GRANTED**, in part. Plaintiff shall inspect the diffuser machine in accordance with the limits enumerated above.

So Ordered this 5th Day of June, 2009.

  
\_\_\_\_\_  
E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE